

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Bay State Gas Company

D.T.E. 05-27

**ATTORNEY GENERAL'S MOTION FOR LEAVE TO SUBMIT ADDITIONAL
ARGUMENT IN SUPPORT OF HIS MOTION TO BIFURCATE AND APPEAL OF THE
PROCEDURAL SCHEDULE**

Pursuant to 220 C.M.R. § 1.04(5) and based on new information, the Attorney General seeks leave to supplement his earlier Motion to Bifurcate and his Appeal of the Procedural Schedule. Very late in the discovery process, the Bay State Gas Company (“Bay State” or “Company”) identified previously withheld information about what types of computer generated reports may be available for review regarding corrosion in its distribution system.¹ This delay has impeded a prompt and fair review of an important issue in the Company’s case, and further supports the Attorney General’s arguments in favor of bifurcation and enlarging the procedural schedule for these proceedings.

Although the Attorney General issued a comprehensive set of information requests to Bay State on May 5, 2005, regarding corrosion in the Company’s distribution system, the Company failed to provide meaningful responses to critical information requests. The Attorney

¹ Bay State still has not identified what other corrosion-related management reports or analyses exist, so even with its recent disclosure, the Company continues to pursue a strategy stonewalling the discovery process on this important issue.

General spoke frequently with the Company regarding overdue responses, raised the issue during the June 2, 2005, procedural conference, initiated a formal discovery conference on June 14, 2005, and finally filed a Motion to Compel on June 16, 2005. On June 17, 2005, after 10:00 PM in the evening, the Company delivered a letter which discusses the types of computerized reports available from the Work Order Management System (“WOMS”), but also identified two new computer systems, the Compliance Management System and a Microsoft Access database for leaks in the Brockton service territory, that may provide responsive information to the Attorney General’s requests.² The Company provided this information forty-two days after issuance of the information requests and just three days (including a weekend and a holiday) before the close of discovery. Within this brief amount of time, the Attorney General must formulate additional information requests seeking specific reports. Discovery will close long before the Company has produced the information, and the Attorney General will not have the opportunity to issue follow-up requests. The Company delayed the release of this description of some potentially responsive computerized reports to deprive the Attorney General of a meaningful opportunity to investigative corrosion on Bay State’s distribution system and prepare prefiled testimony.

² The Company delivered the letter which included maps and some sample reports to the to the Attorney General, but sent only the cover letter without any attachments to the Hearing Officer. The Company should submit copies of the sample reports to the service list. In addition, a Company employee should issue a response to an information request that contains the same information as described in the letter. A copy of the letter is attached as exhibit A.

WHEREFORE: The Attorney General requests that the Department grant leave to file this supplemental information in support of the Attorney General's Motion to Bifurcate and his Appeal of the Procedural Schedule.

Respectfully Submitted,

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